

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTONLELBERT L. WILLIAMS,
Plaintiff,

v.

SACRED HEART HOSPITAL,
Defendant.

NO: 2:14-cv-00208-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT**1915(g)**

BEFORE THE COURT is Magistrate Judge Hutton's Report and Recommendation to Dismiss the First Amended Complaint for failure to state a claim upon which relief may be granted and to count such dismissal as a "strike" under 28 U.S.C. § 1915(g), ECF No. 10. Plaintiff, a prisoner at the Spokane County Jail, is proceeding *pro se* and *in forma pauperis*; Defendant has not been served.

Plaintiff's allegations against a private hospital, for alleged negligence or medical malpractice, failed to state a claim under 42 U.S.C. § 1983 for which relief may be granted in this Court. *Leer v. Murphy*, 844 F.2d 628, 632-33 (9th Cir. 1988); *Broughton v. Cutter Lab*, 622 F.2d 458, 460 (9th Cir. 1980).

ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT -- 1

1 There being no objections, **IT IS ORDERED** the Report and
2 Recommendation, ECF No. 10, is **ADOPTED IN ITS ENTIRETY**. The First
3 Amended Complaint, ECF No. 9, is **DISMISSED with prejudice** for failure to
4 state a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and
5 1915A(b)(1).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
7 brings three or more civil actions or appeals which are dismissed as frivolous or for
8 failure to state a claim will be precluded from bringing any other civil action or
9 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
10 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the new**
11 **statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff’s**
12 **complaint may count as one of the three dismissals allowed by 28 U.S.C. §**
13 **1915(g) and may adversely affect his ability to file future claims.**

14 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
15 Order, enter judgment, forward copies to Plaintiff at his last known address, and
16 close the file. The District Court Executive is further directed to forward a copy of

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1 this Order to the Office of the Attorney General of Washington, Criminal Justice
2 Division. The Court certifies any appeal of this dismissal would not be taken in
3 good faith.

4 **DATED** this 5th day of November 2014.

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7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 Chief United States District Court Judge
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